IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 2317 of 2004

DATED: 10.4.2007

Between:

The Principal,
Vasavi College of Engineering,
Ibrahimbagh, Hyderabad petitioner

And

The Controlling Authority under Payment of Gratuity Act, 1972
Cum Assistant Commissioner of Labour –IV
T Anjaiah Karmika Samkshema Bhavan,
R T C Cross Roads, Hyderabad & 2 ors Respondents

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THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 2317 OF 2004

ORAL ORDER:

This writ petition is filed seeking the following relief;

> "…(a) declaring that the payment of Gratuity Act, 1972 has no application to the teachers of the petitioner educational institution and (b) issue a writ more particularly one in the nature of certiorari quashing the orders of the first respondent passed in P.G. No. 12 of 2001 dated 1.12.2003 of the Controlling authority under Payment of Gratuity Act, 1972 and Assistant Commissioner of Labour-IV, Hyderabad….."

The petitioner college is a private un-aided college registered under the Societies Registration Act, 1861 imparting General and Technical education. The first respondent herein passed an order under section 7 of the Payment of Gratuity Act, 1972 allowing the petition filed by the second respondent in P.G. No. 12 of 2001 dated 1.12.2003 directing the petitioner college to pay Rs.1,90,842/- to the second respondent. Questioning the said order, the present writ petition is filed on the ground that the petitioner being an educational institution is not covered under the Payment of Gratuity Act, 1972.

Today when the matter is taken up, learned counsel for petitioner submitted that the issue raised in the present writ petition is squarely covered by a judgment of the Apex Court in **AHMEDABAD PRIVATE PRIMARY TEACHERS' ASSOCIATION Vs. ADMINISTRATIVE**

OFFICER AND OTHERS[1]. The operative portion of the said judgment reads as under;

> "Having thus compared the various definition clauses of word 'employee' in different enactments, with due regard to the different aims and objects of the various labour legislations, we are of the view that even on plaint construction of the words and expression used in definition Cl.2 (2) of the Act, 'teachers' who are mainly employed for imparting education are not intended to be covered for extending gratuity benefits under the Act….."

In the present case the first respondent has allowed the claim of the second respondent who is Professor and head of the Department of Mechanical Engineering. In view of the judgment of the Apex Court i n **AHMEDABAD PRIVATE PRIMARY TEACHERS ASSOCIATIONS**' case the teachers do not fall under the provisions of the Payment of Gratuity Act, 1972, and the order passed by the first respondent is liable to be set aside. Accordingly, the order passed by the first respondent in P.G. No. 12 of 2001 dated 1.12.2003 is hereby set aside and the writ petition is allowed. No costs.

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N.V.RAMANA,J

DATE: 10.4.2007

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[1] 2004 AIR SCW 356